THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.18979 OF 2007

Dated: 09.10.2007

Between:

Ch. Sita

..Petitioner

And

1. The Government of A.P., rep., by its
   Secretary, General Administration Department,
   Secretariat, Hyderabad and others.

.. Respondents.

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.18979 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioner aggrieved by the order of statusquo passed by the tribunal in O.A.No.5039 of 2007.

The petitioner herein is the applicant in the above O.A.

Originally, the petitioner-applicant filed the above O.A., seeking to declare the proceedings in Rc.No.695/3/2004, dated 20.8.2007 issued by the Regional Deputy Director, State Audit, Visakhapatnam as illegal and arbitrary and consequently, to set aside the same.

It is the case of the applicant that she was appointed on compassionate grounds as attender. The 5th respondent, who was working as attender involved in a criminal case and placed under suspension w.e.f.19.3.1991 and he continued under suspension till 4.3.1993. During that period, the applicant was promoted as Junior Auditor as there was no other eligible person and thereafter, she was further promoted as Senior Auditor and her services in that cadre were regularized vide proceedings dated 19.8.1998.

While so, on the O.A. filed by the 5th respondent to consider his case for promotion, the tribunal directed the official respondents to consider his case for appointment by transfer in accordance with the rules. The state President of Mala Mahanadu is alleged to have made a representation along with the representation of the 5th respondent, on the basis of which, the Government of A.P. issued proceedings dated 6.10.2004 advising the Director of State Audit to give promotion

to 5th respondent against the quota meant for attender duly reverting the applicant herein. Hence, the Regional Deputy Director issued notice to the applicant. Aggrieved by the same, she filed O.A.No.5968 of 2004 and the tribunal suspended the proceedings dated 6.10.2004. The said O.A. was dismissed for default and on the application filed by the applicant, the same was restored. Now, the said matter is reserved for judgment. Meanwhile, the Director, State Audit issued proceedings dated 16.8.2007 stating that O.A.No.5968 was dismissed. Challenging the same, the applicant filed the present O.A.No.5039 of 2007, in which, the Tribunal granted status quo.

It is the contention of the learned Counsel for the petitioner that the earlier O.A. was restored and since the interim orders were continued pending the O.A., the respondents ought not to have reverted the applicant on the ground that although O.A. is restored, interim orders were not renewed. It is also the contention of the learned Counsel for the petitioner that taking undue advantage of the order of the Tribunal to accommodate the 5th respondent, the applicant cannot be penalized.

Heard the learned Counsel for the petitioner and the learned Government Pleader.

During the course of arguments, the Government Pleader has produced a letter received from the Director of State Audit, A.P., Hyderabad to the effect that the proceedings dated 20.8.2007, 22.8.2007 and 5.10.2007 in regard to the petitioner were kept in abeyance and the applicant reported to duty as Senior Auditor on 5.10.2007.

Under the facts and circumstances of the case and in view of the letter received from the Director of state Audit, without expressing any opinion on the merits of the case, we are of the opinion that the

petitioner shall be continued in the post of Senior Auditor and at the same time, it is made clear that the tribunal while disposing of the O.A. shall direct the respondents to consider the case of the 5th respondent in the existing vacancies.

With the above observations, the Writ Petition is disposed of in terms of the above letter.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 9.10.2007
Gurc/Nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.18979 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 9.10.2007